

Ex. 2

NEW ENGLAND COMPOUNDING PHARMACY, INC. PRODUCTS LIABILITY  
SHMUEL SHOHAM, M.D. on 01/19/2017

DEPOSITION OF

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MASSACHUSETTS

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:  
IN RE: NEW ENGLAND :  
COMPOUNDING PHARMACY, INC. :  
PRODUCTS LIABILITY LITIGATION: MDL NO. 2419  
:  
This Documents Relates to: : Master Docket  
: 1:13-MD-02419-RWZ  
All Cases against the Box :  
Hill Defendants :  
:  
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DEPOSITION OF  
SHMUEL SHOHAM, M.D.

THURSDAY, JANUARY 19, 2017  
10:00 a.m.

Law Office of Peter G. Angelos  
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Before: Linda Bahur, RPR



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<p style="text-align: right;">Page 42</p> <p>1 going to give opinions about -- you were going to give</p> <p>2 opinions concerning being a medical doctor, in</p> <p>3 general, not a pain specialist?</p> <p>4 MS. KASPUTYS: Objection.</p> <p>5 A That's what we talked about. But they</p> <p>6 weren't telling me what to do. They were saying that</p> <p>7 that is something that I can do.</p> <p>8 Q They said it's something you can do?</p> <p>9 A As I recall. I don't recall the specific</p> <p>10 words.</p> <p>11 Q And did that have to do with standard of</p> <p>12 care or what did it have to do with?</p> <p>13 A Standard of care.</p> <p>14 Q So why don't you give me your opinions with</p> <p>15 regards to that, as a medical doctor, and how it</p> <p>16 relates to a standard of care in this case.</p> <p>17 A So my opinions regarding standard of care</p> <p>18 in this case are in the report.</p> <p>19 Q Okay. But can you point me to where it is?</p> <p>20 A Page 3 is a specific example.</p> <p>21 Q What part of page 3?</p> <p>22 A Third paragraph.</p> <p>23 Q Okay. So let's look at the first</p> <p>24 paragraph, the first full paragraph on page 3. It</p> <p>25 says, "The manner by which the contaminated steroids</p>	<p style="text-align: right;">Page 44</p> <p>1 applicable to prescribing prescription medicines," and</p> <p>2 then describes, I guess, some other opinions in here.</p> <p>3 But what Maryland law are you referring to?</p> <p>4 A I can give you -- the specific newsletter</p> <p>5 is number 13 on page 5, Board of Pharmacy Newsletter,</p> <p>6 Fall 2012.</p> <p>7 Q Okay. Do you have a copy of that?</p> <p>8 MS. KASPUTYS: That's in the documents that</p> <p>9 were produced for you. Third tab.</p> <p>10 MR. COREN: Third tab?</p> <p>11 MR. KIRBY: I'm not saying you didn't send</p> <p>12 it out. I'm just saying I don't see a copy of it.</p> <p>13 MS. KASPUTYS: Greg, I'll give you one to</p> <p>14 look at.</p> <p>15 MR. KIRBY: Okay.</p> <p>16 MS. KASPUTYS: If I can get it out of the</p> <p>17 binder. There you go.</p> <p>18 MR. KIRBY: Thanks.</p> <p>19 MS. KASPUTYS: Oh, wait a minute. Let me</p> <p>20 give you the rest of the pages. There you go.</p> <p>21 MR. KIRBY: I'd like to mark this as an</p> <p>22 exhibit. Can we make a copy?</p> <p>23 MS. KASPUTYS: Go ahead. You can use that.</p> <p>24 Just take it. I have a stapler if you need one.</p> <p>25 BY MR. KIRBY:</p>
<p style="text-align: right;">Page 43</p> <p>1 reached patients did not always conform to the</p> <p>2 standards of care. A specific example is the method</p> <p>3 and manner in which PF MPA from NECC was prescribed,</p> <p>4 ordered, and administered at Box Hill Surgery Center</p> <p>5 in Maryland."</p> <p>6 So what do you mean by that? Like, be more</p> <p>7 specific.</p> <p>8 A So the way that the products were</p> <p>9 prescribed, according to the testimony that I've read,</p> <p>10 were that patients who had previously been seen at the</p> <p>11 surgical center, their names were provided as a list</p> <p>12 and vials were ordered using those names.</p> <p>13 And then those vials would come and those</p> <p>14 vials were sometimes given to patients who were</p> <p>15 different than the ones that it was prescribed for.</p> <p>16 And additionally, the single use vials were at times</p> <p>17 used more than one time for one patient for one</p> <p>18 procedure.</p> <p>19 Q Okay. You've never purchased drugs for an</p> <p>20 ambulatory surgery center before, right?</p> <p>21 A Not that I recall.</p> <p>22 Q Okay. And you don't generate, manage, and</p> <p>23 treat chronic pain patients, correct?</p> <p>24 A That is correct.</p> <p>25 Q Now, it says in here "under Maryland law</p>	<p style="text-align: right;">Page 45</p> <p>1 Q Doctor, have you found the newsletter you</p> <p>2 were referring to in your binders?</p> <p>3 A Yes. It's on page 7 of the newsletter</p> <p>4 that's called "Maryland Board of Pharmacy News," Fall</p> <p>5 2012.</p> <p>6 Q I'm sorry, can you say that one more time?</p> <p>7 A Maryland Board of Pharmacy News, Fall 2012,</p> <p>8 page 7.</p> <p>9 Q Okay. So we're going to mark this, it's</p> <p>10 the same thing you have, as 1612-6, for the record.</p> <p>11 (Exhibit No. 1612-6 was marked for</p> <p>12 identification.)</p> <p>13 Q As a physician, you don't regularly receive</p> <p>14 newsletters from the Board of Pharmacy, do you?</p> <p>15 A I may. I'm not sure.</p> <p>16 Q Okay. You don't seek out and review</p> <p>17 newsletters from the Board of Pharmacy, do you?</p> <p>18 A In preparation for this case, I reviewed</p> <p>19 this material.</p> <p>20 Q So I mean, in the normal course of your</p> <p>21 practice.</p> <p>22 A I may receive it.</p> <p>23 Q You're talking about you receive Maryland</p> <p>24 Board of Pharmacy newsletters?</p> <p>25 A I may. I'm not sure.</p>

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<p style="text-align: right;">Page 106</p> <p>1 for multiple patients or for multiple procedures in 2 the same patient is not standard of care. 3 Q Okay. And are you familiar with any 4 literature that suggests that, I guess, "single-dose 5 dose vials can be used on multiple patients under 6 certain circumstances with certain precautions that 7 are taken"? 8 A I have seen a reference that is an opinion 9 by some people. 10 Q Okay. So you wouldn't disagree that some 11 in medicine accept the practice of using single-dose 12 vials multiple times as long as they follow certain 13 precautions? 14 A That is an opinion. That is not what the 15 CDC recommends. The CDC recommends against it. 16 Q All right. If other reasonably prudent 17 practitioners believe that it's okay to do it as long 18 as there are certain precautions taken, isn't that the 19 definition of standard practice? 20 MR. COREN: Objection as to form. 21 MS. KASPUTYS: Object to form. 22 Q Maybe not everyone agrees. You have one. 23 Someone else has a different opinion. But that 24 doesn't mean that just because it's different than 25 your opinion that it's wrong, correct?</p>	<p style="text-align: right;">Page 108</p> <p>1 A Yes. 2 Q "And the push for cost-efficient care, a 3 case can made for safely reusing a single-dose 4 medication." See that? 5 A I see that. 6 Q And then under there, it's a description of 7 -- I'm just going to read it. You can follow along. 8 It says, "If a practitioner chooses to reuse a 9 single-dose medication, there must be strict 10 safeguards in place that minimize the risk of 11 infection. These include using the medication for a 12 limited number of patients and for a single day only, 13 cleansing the stopper thoroughly between uses with 14 isopropyl alcohol or another suitable antimicrobial. 15 Refrigeration of vial between cases if there is a time 16 gap between consecutive cases and discarding the vial 17 if any breach or sterility is suspected." 18 And then it goes on to say, of course, you 19 only, you know, use a needle, one needle per patient, 20 et cetera. 21 If that is the process by which Dr. 22 Bhambhani administers the drug and "reuses the 23 single-dose vial," she follows those precautions, 24 would you agree that according to this article, she's 25 complying with an accepted standard of practice?</p>
<p style="text-align: right;">Page 107</p> <p>1 A You said a lot of things there. 2 Q I did, didn't I? There's not always one 3 way to satisfy the standard of care, right? There's 4 sometimes more than one standard practice, right? 5 A As a general statement? 6 Q As general statement, right. 7 A There are different ways to do things. 8 Q And I want to just hand you what's been 9 previously marked as 1619-10. It's an article. At 10 the top, just for the record, that says it's titled 11 "The Price of Cost Savings," Ray M. Baker, in the 12 Clinical Journal of Pain, June of 2008. 13 And did you review in Dr. Bhambhani's 14 deposition her description of the process and how she 15 administers the injection and what precautions she 16 takes? 17 A Yes. 18 Q Okay. So if you look at the second page of 19 this article, page 382, if you look at the right 20 column, the second paragraph up from the bottom, it 21 starts off "If a practitioner chooses." 22 A Yes. 23 Q And actually if you look a few lines up 24 from that, it says, "Given the reduced reimbursements 25 for interventional pain procedures." Do you see?</p>	<p style="text-align: right;">Page 109</p> <p>1 MR. STEINER: Objection as to form. You 2 can answer. 3 A According to the CDC, in which I place more 4 credence than this opinion, a single vial, a 5 single-dose vial should not be reused. And I don't 6 know why this clinician opined as he did. But even in 7 2012, I would not say that this was a reasonable 8 opinion based on the history of multiple outbreaks 9 related with reusing of single-dose vials. 10 Q Do you know Dr. Baker? 11 A No. 12 Q Are you familiar with this journal? 13 A I've heard of it. 14 Q Do you have an opinion, one way or the 15 other, whether this journal is a reasonably reliable 16 journal? 17 MR. COREN: Objection as to form. 18 A I don't. 19 Q And so you would disregard the expressions 20 made here this literature? 21 A I do not think that the statement of given 22 the reduced reimbursements for interventional pain 23 procedures and the push for cost-efficient care, a 24 case can be made for safely reusing a single-dose 25 medication, and that this is something that could be</p>

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<p>1 Q How so?</p> <p>2 A If the events that led to this infection,</p> <p>3 part of it was the way that the medications were</p> <p>4 delivered to the patients. Had individual</p> <p>5 prescriptions been written for individual patients,</p> <p>6 it's possible but unknowable that the compounding</p> <p>7 pharmacy would have behaved differently.</p> <p>8 Q So are you saying that if Dr. Bhambhani had</p> <p>9 sent in individual pieces of paper for each patient or</p> <p>10 done it digitally or whatever, but if she had sent in</p> <p>11 individual pieces of paper for each patient, that NECC</p> <p>12 then would have created another version of the MPA</p> <p>13 that was not adulterated, that didn't have fungus in</p> <p>14 it?</p> <p>15 A I'm saying it's unknowable.</p> <p>16 Q But we'd agree that the recalled lots at</p> <p>17 issue that Dr. Bhambhani ordered, it was all</p> <p>18 potentially contaminated, right?</p> <p>19 A The recalled lots were all potentially</p> <p>20 contaminated, right.</p> <p>21 Q So if on a particular date she sent in one</p> <p>22 order form with a list of names and then she also sent</p> <p>23 in, you know, a hundred separate pieces of paper</p> <p>24 separately for each patient, are you saying she would</p> <p>25 have gotten back different batches of the MPA, some</p>	<p>1 but I can find out for you the number of centers.</p> <p>2 Q And what was the number of centers? 76</p> <p>3 sound about right? In that ball park?</p> <p>4 A That sounds about right.</p> <p>5 Q Do you know how many customers of NECC --</p> <p>6 how many healthcare providers or centers ordered any</p> <p>7 drug from NECC from May of 2012 until the outbreak?</p> <p>8 A I don't recall off the top of my head.</p> <p>9 Q Okay. I'm going to hand you what's been</p> <p>10 marked in previous depositions as Exhibit 1585-12.</p> <p>11 And at the top it says "New England Compounding Center</p> <p>12 Customer List since May 21, 2012, Sorted by State."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q Okay. And so it's 73 pages, right, if you</p> <p>16 flip to the back?</p> <p>17 A Yes.</p> <p>18 MS. KASPUTYS: Did you bring another copy</p> <p>19 we can look at?</p> <p>20 MR. KIRBY: I honestly didn't. I've marked</p> <p>21 it in every deposition since December.</p> <p>22 MS. KASPUTYS: I'll find it in my computer.</p> <p>23 MR. KIRBY: Sorry about that.</p> <p>24 MS. KASPUTYS: It's all right.</p> <p>25 BY MR. KIRBY:</p>
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<p>1 that were contaminated, and another batch that was</p> <p>2 from an uncontaminated version?</p> <p>3 MR. COREN: Form objection.</p> <p>4 A I just don't know.</p> <p>5 Q Okay. You just can't say one way or the</p> <p>6 other?</p> <p>7 A I can't say one way or the other.</p> <p>8 Q Do you know how long Dr. Bhambhani had been</p> <p>9 using NECC's MPA?</p> <p>10 A I don't recall.</p> <p>11 Q Do you recall seeing that she had been</p> <p>12 using it for about eight years with no issues?</p> <p>13 A I don't recall the specifics.</p> <p>14 Q Okay. Bear with me.</p> <p>15 So tell me what you know about the</p> <p>16 outbreak, in general, and the recalled drugs. Do you</p> <p>17 know how widespread was the recall?</p> <p>18 MS. KASPUTYS: Objection to form.</p> <p>19 Q If you know.</p> <p>20 A It was very widespread. Across many</p> <p>21 states.</p> <p>22 Q Do you know how many healthcare providers</p> <p>23 were ordering the MPA from NECC? The recalled MPA</p> <p>24 from NECC?</p> <p>25 A I don't know how many healthcare providers,</p>	<p>1 Q Just quick math. If there's -- and I'm not</p> <p>2 holding anyone to any particular numbers, specific</p> <p>3 numbers, but if there's 41 or 42 -- let me start over.</p> <p>4 It looks like if you start on page 1, it's</p> <p>5 listed in alphabetical order by state, starting with</p> <p>6 Alaska, and it goes all the way to Wyoming on the</p> <p>7 back.</p> <p>8 If there's 40 or so entities listed here on</p> <p>9 each page, and there's 73 page, would you dispute that</p> <p>10 that's around 3,000 --</p> <p>11 MR. COREN: Objection to form.</p> <p>12 Q -- customers?</p> <p>13 MR. COREN: Objection to form.</p> <p>14 Q It's in the thousands, right?</p> <p>15 A Probably.</p> <p>16 Q 70 times 40 is 2800, and it's probably a</p> <p>17 little more than that, right?</p> <p>18 MR. COREN: Form objection.</p> <p>19 A Probably.</p> <p>20 Q And can you tell me how each of these</p> <p>21 entities were ordering drugs from NECC?</p> <p>22 MR. COREN: Objection as to form.</p> <p>23 A I don't know.</p> <p>24 Q Okay. Can you provide any evidence that</p> <p>25 they were using individualized patient-specific</p>



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<p style="text-align: right;">Page 62</p> <p>1 in a similar situation.</p> <p>2 Q Okay. What are some of the things that can</p> <p>3 help shape a standard of care or a standard of</p> <p>4 practice in a particular field?</p> <p>5 A The scientific evidence, the medical</p> <p>6 tradition, the needs of a particular patient.</p> <p>7 Q Would you agree -- I want to list a few</p> <p>8 things and just tell me if you don't agree with any of</p> <p>9 these.</p> <p>10 Formal education, what you were taught,</p> <p>11 something you learn from your mentors, your training,</p> <p>12 discussions with others, medical conferences,</p> <p>13 interacting with patients, and a physician's</p> <p>14 experience in their own practice. Are those</p> <p>15 reasonable things that can provide the basis for</p> <p>16 standard of practice?</p> <p>17 MR. COREN: Form objection.</p> <p>18 A May we take them one by one?</p> <p>19 Q Sure. So your formal education, can that</p> <p>20 contribute to forming -- shaping a standard of care</p> <p>21 practice?</p> <p>22 A It depends.</p> <p>23 Q How so?</p> <p>24 A Depends on the timeliness of the formal</p> <p>25 education. If a formal education happened 60 years</p>	<p style="text-align: right;">Page 64</p> <p>1 compounding pharmacies or things like that?</p> <p>2 MR. COREN: Form objection.</p> <p>3 A I'm not aware of the attention that was put</p> <p>4 on compounding pharmacies outside of my narrow area of</p> <p>5 expertise, which is fungal infections. After this</p> <p>6 event, there was increased scrutiny on the issue of</p> <p>7 fungal infections in compounding pharmacies.</p> <p>8 Q Okay. Would you agree that the standard of</p> <p>9 care is prospective and not judged retrospectively in</p> <p>10 hindsight?</p> <p>11 A Can you explain that to me?</p> <p>12 Q Yes. Standard of care, the way what</p> <p>13 reasonably prudent physicians would do in a</p> <p>14 circumstance is judged based on what was true at the</p> <p>15 time or what was known at the time, correct? It's not</p> <p>16 Monday morning quarterbacking, looking back after the</p> <p>17 fact, right?</p> <p>18 A So the standard of care is something that</p> <p>19 relates to that particular event in that particular</p> <p>20 time.</p> <p>21 Q Okay. If something were to be found out or</p> <p>22 discovered after the fact, you don't apply that -- you</p> <p>23 don't go back and retrospectively apply that to the</p> <p>24 situation that happened before, right?</p> <p>25 A Can you be more specific?</p>
<p style="text-align: right;">Page 63</p> <p>1 ago, the standard of care may have changed on a</p> <p>2 particular topic.</p> <p>3 Q What if a physician stayed current on</p> <p>4 continuing education, things like that?</p> <p>5 A So what's the question?</p> <p>6 MS. KASPUTYS: Objection.</p> <p>7 Q So that can contribute to shaping a</p> <p>8 standard of care or standard of practice, what</p> <p>9 reasonably prudent physicians do in similar</p> <p>10 circumstances?</p> <p>11 A So continuing medical education can put a</p> <p>12 clinician in a position to provide standard of care</p> <p>13 medicine.</p> <p>14 Q Okay. What about experience, your own</p> <p>15 experience in your practice?</p> <p>16 A It depends on the experience.</p> <p>17 Q Would you agree that since the meningitis</p> <p>18 outbreak that we're here discussing today, there's</p> <p>19 been an increased scrutiny on the pharmaceutical</p> <p>20 industry?</p> <p>21 MR. COREN: Objection as to form.</p> <p>22 A That's too broad a statement for me to</p> <p>23 answer.</p> <p>24 Q Do you have any understanding of whether</p> <p>25 there was an increased focus or increased attention on</p>	<p style="text-align: right;">Page 65</p> <p>1 Q I don't think so.</p> <p>2 A It depends on what's found out. But as an</p> <p>3 example, if we find out that, say, a certain</p> <p>4 medication doesn't work, then we would not say that</p> <p>5 somebody who used that medication when it was thought</p> <p>6 to work was not within the standard of care.</p> <p>7 Q Okay. That's my point. Okay.</p> <p>8 A So I agree with that point.</p> <p>9 Q Okay. We talked a lot about the</p> <p>10 prescription issue. And to cut to the chase, would</p> <p>11 you agree that the issuance of individual</p> <p>12 prescriptions didn't cause the contamination in this</p> <p>13 case? Didn't cause the vials of MPA to be</p> <p>14 contaminated with fungus?</p> <p>15 A I don't know what caused the vials to</p> <p>16 become contaminated with fungus and what processes led</p> <p>17 to that.</p> <p>18 Q Okay. Put simply, whether Dr. Bhambhani</p> <p>19 ordered the drugs the way she did or sent in 80</p> <p>20 individualized pieces of paper, 80 separate pieces of</p> <p>21 paper in the manner that you say should have been</p> <p>22 ordered, that wouldn't have -- that wouldn't have</p> <p>23 changed the outcome, right? She still would have</p> <p>24 gotten contaminated drugs?</p> <p>25 A That's unknowable.</p>



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<p style="text-align: right;">Page 54</p> <p>1 said, so...</p> <p>2 BY MR. KIRBY:</p> <p>3 Q What is it specifically about these</p> <p>4 prescriptions? What did Dr. Bhambhani need to put on</p> <p>5 each prescription -- on each prescription that would</p> <p>6 have been different for patient A versus patient D?</p> <p>7 A I think it depends on the patient. I can</p> <p>8 speak to an individual patient with an individual</p> <p>9 prescription.</p> <p>10 Q Is it your understanding that Dr. Bhambhani</p> <p>11 was using the MPA at issue kind of in an office supply</p> <p>12 situation?</p> <p>13 A Yes.</p> <p>14 Q And is it your understanding that it didn't</p> <p>15 matter to her whether she used vial 1 or vial 12, it</p> <p>16 was going to be the same for each patient?</p> <p>17 MR. COREN: Objection to form.</p> <p>18 A I don't know that.</p> <p>19 Q Okay. You don't know one way or the other?</p> <p>20 A I don't know that.</p> <p>21 Q Is there anything else that you have with</p> <p>22 regards to your opinion about how Dr. Bhambhani</p> <p>23 breached the standard of care in ordering the drugs?</p> <p>24 MS. KASPUTYS: Objection to form of the</p> <p>25 question.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q Okay. So you're not sure what</p> <p>2 relationship -- what type of relationship they had?</p> <p>3 A I'm not sure.</p> <p>4 Q Would you agree that Dr. Bhambhani was</p> <p>5 ordering the MPA for general use in her ambulatory</p> <p>6 surgery center?</p> <p>7 MR. COREN: Objection as to form.</p> <p>8 A It seems that way, but I'm not sure of that</p> <p>9 because she was using specific patient names.</p> <p>10 Q Typically when we think of prescriptions,</p> <p>11 we think of a patient getting a piece of paper and</p> <p>12 taking it to CVS or the doctor sending us, you know, a</p> <p>13 piece of paper to the pharmacy for the drug so that</p> <p>14 the patient can pick it up and take it home, right?</p> <p>15 A No.</p> <p>16 Q Okay. Well, tell me what -- I mean, isn't</p> <p>17 that generally what people think of when they think</p> <p>18 about getting a prescription drug?</p> <p>19 MR. COREN: Objection as to form.</p> <p>20 A I don't know what people think of.</p> <p>21 Q Okay. Regardless, that's not what we're</p> <p>22 dealing with here, right? I mean, the patients in</p> <p>23 these cases never handled the MPA, right?</p> <p>24 A I don't know.</p> <p>25 Q Is it your understanding that</p>
<p style="text-align: right;">Page 55</p> <p>1 A Can you repeat your question?</p> <p>2 Q I'm just trying to exhaust your opinions.</p> <p>3 Is there anything else that we haven't talked about</p> <p>4 with regards to how Dr. Bhambhani ordered the drugs at</p> <p>5 issue that you say was wrong?</p> <p>6 A If we can go to her deposition, or one of</p> <p>7 the depositions mentioned getting medications from</p> <p>8 another clinic, I believe.</p> <p>9 Q Okay. Feel free to look at her deposition.</p> <p>10 So feel free to keep looking if you want.</p> <p>11 But can you recall anything off the top of your head</p> <p>12 about what you were referring to?</p> <p>13 A What I recall off the top of my head was</p> <p>14 that there were medications that were obtained by the</p> <p>15 Box Hill center from another surgical center.</p> <p>16 Q Okay. And tell me what you believe was the</p> <p>17 problem with that. What's your criticism?</p> <p>18 A That if a medication for a specific person</p> <p>19 that's prescribed should be coming from the</p> <p>20 manufacturer or from a pharmacy, not from another</p> <p>21 center.</p> <p>22 Q Do you have an understanding of what</p> <p>23 Dr. Bhambhani's relationship was with that other</p> <p>24 ambulatory surgery center you just referred to?</p> <p>25 A Not a good understanding.</p>	<p style="text-align: right;">Page 57</p> <p>1 Dr. Bhambhani -- well, tell me how you think she was</p> <p>2 ordering the drug from NECC.</p> <p>3 A Well, what I think that she was doing was</p> <p>4 sending in lists of patients for whom the drug may or</p> <p>5 may not be given and ordering the drug for those</p> <p>6 patients and then using it either for those patients</p> <p>7 or for other patients.</p> <p>8 Q And what's your basis for saying that?</p> <p>9 A The deposition of Dr. Bhambhani and of</p> <p>10 Nurse Vickers and the exhibits of the deposition.</p> <p>11 Q Okay. So it's your understanding that she</p> <p>12 was ordering drugs -- is it your understanding that</p> <p>13 she was ordering drugs per the instructions of NECC?</p> <p>14 MR. COREN: Objection as to form. You can</p> <p>15 answer.</p> <p>16 A I believe that it was a combination of the</p> <p>17 instructions from NECC and the advice that she had</p> <p>18 received from the nurse she was working with then from</p> <p>19 the other center that she had worked with.</p> <p>20 Q Okay. And she was ordering, using</p> <p>21 something that said -- a one sheet of paper that said</p> <p>22 "Prescription Order Form" at the top. Are you aware</p> <p>23 of that?</p> <p>24 A Yes.</p> <p>25 Q Okay. And you're saying she was listing</p>

<p style="text-align: right;">Page 58</p> <p>1 names or providing a patient schedule to NECC?</p> <p>2 A I don't know about a patient schedule, but</p> <p>3 I do know that there were names listed and redacted on</p> <p>4 the copy that I have. But based on her testimony,</p> <p>5 then yes.</p> <p>6 Q Okay. And so do you recall in her</p> <p>7 testimony that the schedule of patients were patients</p> <p>8 who were going to receive or who had received epidural</p> <p>9 steroid injections; is that your understanding?</p> <p>10 MS. KASPUTYS: Objection.</p> <p>11 A Can you ask that again?</p> <p>12 Q Yes. And I'm trying to parse out what</p> <p>13 you're saying.</p> <p>14 Is it your understanding that the names</p> <p>15 that she provided -- or that Dr. Bhambhani testified</p> <p>16 that she provided a patient schedule, is it your</p> <p>17 understanding that those patients would receive or had</p> <p>18 received epidural injections?</p> <p>19 MR. COREN: Objection as to form.</p> <p>20 A Some of the patients had received. I'm not</p> <p>21 sure about the patients that would receive.</p> <p>22 Q Okay. I guess, suffice it to say, you're</p> <p>23 not sure one way or the other whether the patients</p> <p>24 that were listed on there received injections or not,</p> <p>25 correct?</p>	<p style="text-align: right;">Page 60</p> <p>1 office supply of drugs and not having a specific</p> <p>2 prescription for a particular patient, right?</p> <p>3 MS. KASPUTYS: Objection, form.</p> <p>4 A Can you ask your question again?</p> <p>5 Q Yeah. I mean, when you needed the drug, it</p> <p>6 was there for you to use, right?</p> <p>7 MS. KASPUTYS: Objection.</p> <p>8 A Yeah. I don't know what that means, when I</p> <p>9 needed the drug it was there for me to use.</p> <p>10 Q Well, you didn't order the drugs, right?</p> <p>11 MS. KASPUTYS: Objection.</p> <p>12 A I do not order drugs.</p> <p>13 MS. KASPUTYS: Counsel, what drugs are you</p> <p>14 referring to --</p> <p>15 MR. KIRBY: I'm sorry.</p> <p>16 MS. KASPUTYS: -- that the witness ordered?</p> <p>17 MR. KIRBY: If he doesn't understand, he</p> <p>18 can let me know.</p> <p>19 BY MR. KIRBY:</p> <p>20 Q We made that clear before, okay?</p> <p>21 And we were referring to you said you don't</p> <p>22 order drugs in bulk or whatever, and then you said you</p> <p>23 have -- there were time where you need a drug for a</p> <p>24 patient that you're treating and that drug might --</p> <p>25 would be there for you to use, I thought you said,</p>
<p style="text-align: right;">Page 59</p> <p>1 A I am not sure how she came up with the list</p> <p>2 of those names.</p> <p>3 Q And is it your understanding that</p> <p>4 Dr. Bhambhani intended for the MAP that she used, vial</p> <p>5 to vial, that she expected it to be any different for</p> <p>6 one patient versus another?</p> <p>7 MS. KASPUTYS: Objection to the form.</p> <p>8 A I don't know.</p> <p>9 Q Okay. Would you agree that if she</p> <p>10 anticipated that the MPA would be the same formulation</p> <p>11 for each patient, that there wouldn't be anything --</p> <p>12 any specific factor about a particular patient that</p> <p>13 she would need to list on a prescription?</p> <p>14 A I don't know.</p> <p>15 Q Can you order drugs in bulk from an</p> <p>16 FDA-registered manufacturer without prescriptions?</p> <p>17 A I have not ordered drugs in bulk myself.</p> <p>18 But I believe that you do not need a prescription,</p> <p>19 that you can, for example, during vaccine season,</p> <p>20 stock the office with vaccines and there would be no</p> <p>21 prescription for the individual patient.</p> <p>22 Q All right. And that was okay, right?</p> <p>23 A What was okay?</p> <p>24 Q You didn't have a problem with that, not</p> <p>25 having a -- you didn't have a problem with having an</p>	<p style="text-align: right;">Page 61</p> <p>1 without having to send away a prescription to get the</p> <p>2 drug. Isn't that what said?</p> <p>3 MS. KASPUTYS: Objection. Mischaracterizes</p> <p>4 testimony.</p> <p>5 A So ask the question again.</p> <p>6 Q Okay. It's a lot of predicates to that.</p> <p>7 Didn't you just say that there were times</p> <p>8 where you need a drug for a patient to treat a</p> <p>9 patient, that you don't need to send away a</p> <p>10 prescription and wait for the drug to come in, you</p> <p>11 already have the drug there ready to use, correct?</p> <p>12 MS. KASPUTYS: Same objection.</p> <p>13 MR. COREN: Objection.</p> <p>14 A I don't recall what I said, but maybe she</p> <p>15 can read it out to us, what I said, and then I can</p> <p>16 agree or not.</p> <p>17 Q Okay. What's your general definition of</p> <p>18 the term "standard of care"?</p> <p>19 A It's the care that a reasonable clinician</p> <p>20 would provide to a patient under the circumstances of</p> <p>21 that situation.</p> <p>22 Q Okay. In other words, what other doctors</p> <p>23 who were similarly situated would reasonably actually</p> <p>24 do, correct?</p> <p>25 A What other reasonable clinicians would do</p>